

ORDINANCE NO. 1125

AN ORDINANCE AMENDING ORDINANCE 812, WHICH ADOPTED THE CITY OF MARIANNA COMPREHENSIVE PLAN AND ORDINANCE 1120, WHICH AMENDED THE CITY OF MARIANNA COMPREHENSIVE PLAN AND FUTURE LAND USE MAP TO PROVIDE FOR THE ADOPTION OF A CERTAIN COMPREHENSIVE PLAN AMENDMENT (EA 2022-02) TO THE CITY OF MARIANNA COMPREHENSIVE PLAN; PROVIDING FOR SEVERABILITY AND FOR REPEALER; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Legislature adopted Chapter 163, Florida Statutes which requires the City of Marianna ("City") to prepare, adopt, enforce and update a Comprehensive Plan to guide its future development and growth; and

WHEREAS, Section 163.3177(6)(i)2, Florida Statutes (Chapter 2021-195, Laws of Florida) requires the City to include a property rights element in its City of Marianna Comprehensive Plan; and

WHEREAS, the City respects judicially acknowledged and constitutional protected private property rights; and

WHEREAS, THE City respects the rights of all people to participate in land use and planning processes; and

WHEREAS, this ordinance will amend the comprehensive plan by adding a property rights element; and

WHEREAS, the City of Marianna Planning & Zoning Board held a Public Hearing to consider the recommended amendment to the Comprehensive Plan on March 21, 2022, and recommended the Amendment be transmitted by the City Commission for Adoption to the Florida Department of Economic Opportunity; and

WHEREAS, the City Commission of Marianna, Florida held a public hearing as required by Chapter 163, Florida Statutes with due public notice having been provided, and having reviewed and considered all comments received during the public hearings, and provided for necessary revisions; and

WHEREAS, in exercise of its authority, the City Commission finds it necessary and desirable to adopt and does hereby adopt the Amendment to the Comprehensive Plan, in order to provide a Property Rights Element.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF MARIANNA, FLORIDA, THAT:

SECTION 1. The City of Marianna Comprehensive Plan is amended by adding the property rights element attached as Exhibit A and made part of this ordinance as is for in full.

SECTION 2. Authority. The authority for enactment of this ordinance is Article 1, Section 1.06 and 1.07 of the Charter of the City of Marianna. Amendment consists of the attached hereto as Exhibit A, and made a part hereof and which will be incorporated in the current Land Development Code of the City of Marianna.

SECTION 3. Amendment. The Comprehensive Plan for the City of Marianna is hereby amended to include a Property Rights Element, read as follows in Exhibit A.

SECTION 4. Severability. Each separate provision of this ordinance is deemed independent of all other provisions herein so that if any portion or provision of this ordinance is declared invalid, all other provisions thereof shall remain valid and enforceable.

SECTION 5. Effective Date. This Ordinance shall become effective upon its adoption by the City Commission as provided by law.

PRESENTED AND READ BY TITLE TO THE CITY COMMISSION OF THE CITY OF MARIANNA, FLORIDA ON THE ____ DAY OF _____, 2022.

PASSED AND ADOPTED BY THE CITY COMMISSION OF MARIANNA, FLORIDA ON THIS THE _____ DAY OF _____, 2022.

ATTEST:

Marianna City Commissioners

Kimberly J. Applewhite, City Clerk

Allen Ward, II, Mayor/Commissioner

Exhibit A

SECTION 10. PROPERTY RIGHTS ELEMENT

- GOAL:** The City of Marianna will make decisions with respect for property rights and with respect for people’s rights to participate in decisions that affect their lives and property.
- Objective 10.1:** The City of Marianna will respect judicially acknowledged and constitutionally protected private property rights.
- Policy 10.1.1: The City of Marianna will consider in its decision-making the right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.
- Policy 10.1.2: The City of Marianna will consider in its decision-making the right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.
- Policy 10.1.3: The City of Marianna will consider in its decision-making the right of the property owner to privacy and to exclude others from the property to protect the owner’s possessions and property.
- Policy 10.1.4: The City of Marianna will consider in its decision-making the right of a property owner to dispose of his or her property through sale or gift.
- Objective 10.2:** People have the right to participate in planning and development decisions that affect their lives and property. The City of Marianna decision-making will be transparent, so that all people may participate in decisions that affect their lives and property. Policies 10.2.1 through 10.2.4 provide minimum standards for some planning and development decisions. Land development regulations may provide for additional processes and standards.
- Policy 10.2.1: **Decisions for which must follow policies 10.2.2 through 10.2.4.** must follow the procedures in policies 10.2.2 through 10.2.4 when The City of Marianna amends this comprehensive plan; changes the zoning designation of property; or approves a development order for more than [9] residential dwelling units, for more than [9,999] square feet of non-residential development, governing more than [5] acres of land, requiring a variance, or requiring an exception.
- Policy 10.2.2: **Public hearing necessary.** A decision policy 10.2.1 identifies must occur in a public hearing meeting the standards of this policy.
- A. **Any affected person may participate.** The City of Marianna recognizes that planning and development decisions affect complex systems and have impacts that occur beyond the site of development. Any affected person may participate in and be a party to a hearing on a decision this policy governs. An affected

person is any person or local government that will suffer an adverse effect to an interest protected or furthered by this comprehensive plan, including interests related to health and safety, police and fire protection service systems, densities or intensities of development, transportation facilities, health care facilities, equipment or services, and environmental or natural resources. The alleged adverse interest may be shared in common with other members of the community at large.

B. An affected person’s right to be heard. The City of Marianna recognizes that it should make planning and development decisions in response to true and accurate information. In all decisions this policy governs, the City of Marianna will provide every affected person an equal opportunity to be heard, to present and rebut evidence, and to be informed of all information on which bases its decision. The City of Marianna will not grant any affected person a greater opportunity to be heard than another affected person.

Policy 10.2.3: **The City of Marianna must mail notice.** The City of Marianna recognizes that a person cannot participate in decisions about which they are unaware. In addition to providing notice as other laws require, when the City of Marianna makes a decision, policy 10.2.1 identifies that relates to a piece or to pieces of real property that the City of Marianna can specifically identify, the City of Marianna will, at least 30 days before the hearing, mail notice of the hearing to the owners of real property and to residents within 500 feet of the real property to which the decision relates.

Policy 10.2.4: **Public pre-application meeting.** The City of Marianna recognizes that planning and development decisions raise issues which the City of Marianna may not be capable of adequately addressing in a single hearing and that the City of Marianna will make the best decisions when every affected person has the opportunity to participate early and throughout the decision-making process. The applicant for a decision policy 10. 2.1 identifies (or if the City of Marianna initiates the decision-making process) must hold a public pre-application meeting prior to applying for or initiating the decision-making process. The party holding the meeting must request, at least 30 days before the meeting, that the City of Marianna provide notice of the meeting in the normal manner that the City of Marianna provides notice of public meetings and the City of Marianna will comply with this request. In addition, if a proposal relates to a piece or to pieces of real property that the party holding the meeting can specifically identify, then the party holding the meeting must, at least 30 days before the meeting, mail notice of the meeting to residents and to owners of real property within 500 feet of the real property to which the proposal relates. In the meeting, the party holding the meeting must: present its proposal, provide time for all people attending to ask questions and share their perspectives, and record notes which it will provide to the City of Marianna and which the City of Marianna will make a part of the record related to its decision on the proposal.

Objective 10.3: People rely on this comprehensive plan and on the zoning designations of properties when deciding how to use property. The City of Marianna decision-making will be reliable and predictable to promote sound, long-term investments in the community. Policies 10.3.1 through 10.3.3 provide minimum standards for some planning and development decisions. Land development regulations may provide for additional processes and standards

- Policy 10.3.1: **Decisions for which must follow policies 10.3.2 and 10.3.3.** The City of Marianna must follow the procedures in policies 10.3.2 and 10.3.3 when the City amends this comprehensive plan or changes the zoning designation of property.
- Policy 10.3.2: **Majority-plus-one vote required.** The City of Marianna may only make a decision policy 10.3.1 identifies by the affirmative vote of a majority plus one of the City of Marianna City Commission.
- Policy 10.3.3: **Right to evaluate proposed decisions.** The City of Marianna respects the right of people, including elected officials, to fairly evaluate proposed decisions this objective governs. The City may only make a decision policy 3.1 identifies ten or more days after the City has made available to the public the specific decision the City of Marianna City Commission will consider and the written record which will support the City Commission decision. If the City of Marianna adds information to the written record, or if the City Commission revises a proposed decision within ten days of a planned public hearing, the City must postpone its decision until enough time has passed to satisfy this policy